

November 30, 2004

Marlene H. Dortch, Secretary
Federal Communications Commission
445 - 12th Street, S.W.
Room TW-A325
Washington, DC 20554

Re: *Quincy Newspapers, Inc. Reply Comments in MB Docket No. 04-256,
Rules and Policies Concerning Attribution of Joint Sales Agreements in
Local Television Markets*

Dear Ms. Dortch:

These comments are submitted by Quincy Newspapers, Inc. ("QNI") in reply to the initial comments filed in the above-captioned proceeding.¹ QNI's affiliated companies are the licensees of eleven television stations in Nielsen TV market numbers 85 through 163. QNI supports the comments of the many broadcasters that oppose adoption of the Commission's proposal to revise its attribution rules and declare that a television station subject to a joint sales agreement ("JSA") is attributable to the brokering station under the Commission's broadcast ownership rules.

First, as many commenters have explained, the proposal to change the attribution of television JSAs is premature.² After the Commission revised its local television multiple ownership rule in 2003 to allow under certain circumstances the common ownership of two stations in the same market, as long as a single entity did not acquire an attributable interest in more than one station ranked in the market's top four,³ several parties filed petitions for reconsideration of the latter restriction. These petitions are still pending. Also pending is the Commission's response to a remand by the U.S. Court of Appeals for the Third Circuit regarding the local television ownership limits the Commission adopted in 2003.⁴ Because the attribution rules are integrally related to the ownership limits, the instant proceeding should await the outcome of the Commission's pending proceedings on new television ownership limits. As the NAB noted, it is virtually impossible for the Commission to discern the impact of changing the television attribution rule without first deciding new television ownership limits.⁵

¹ *Rules and Policies Concerning Attribution of Joint Sales Agreements in Local Television Markets*, Notice of Proposed Rule Making, MB Docket No. 04-256, FCC 04-173, 19 FCC Rcd 15238 (2004) ("NPRM").

² See, e.g., Comments of Nexstar Broadcasting, Inc. ("Nexstar") at 3-4; Comments of Granite Broadcasting Corporation ("Granite") at 14-15; Comments of the National Association of Broadcasters ("NAB") at 7-8.

³ *2002 Biennial Regulatory Review*, 18 FCC Rcd 13620 (2003) ("Report and Order"), affirmed in part, remanded in part, *Prometheus Radio Project v. FCC*, 373 F.3d 372 (3rd Cir. 2004) ("Prometheus").

⁴ *Prometheus*, *supra*.

⁵ NAB at 8.

The initial comments also have demonstrated that the underlying premise of the NPRM -- “that JSAs have the same effect in local TV markets that they have in local radio markets and should be treated similarly [for attribution purposes]” -- is not factually supported.⁶ The initial comments have shown that local television markets are fundamentally dissimilar to local radio markets in several ways, including the following:

- local ownership rules for radio differ markedly from those governing television; not only is much more ownership consolidation permitted in local radio markets than in local television markets, but the Commission’s radio local ownership rules do not take into consideration the stations’ ranking in the market;⁷
- television stations face significant competition for local advertising, not only from other television broadcasters in the market but also from local cable operators, while radio stations compete for local advertising chiefly against other local radio stations;⁸
- same-market television JSAs alleviate financial burdens not faced by local radio broadcasters such as significantly higher operating costs and the expenses of the ongoing transition to digital television.⁹

Indeed, experience has shown that television JSAs provide significant public interest benefits in promoting diversity and competition, such as by allowing a smaller station either to stay on the air or to provide local news programming that it otherwise could not provide.¹⁰ Television JSAs also provide significant cost efficiencies that can allow broadcasters to focus their resources on acquiring new and diverse programming.¹¹

For these reasons, QNI strongly urges rejection or deferral of a Commission rule attributing television JSAs to the brokering station. If, however, the Commission nevertheless adopts such a new attribution rule, the Commission should permanently grandfather all television JSAs in existence on the date the new rule is adopted. Permanent grandfathering is essential to maintain the contractual arrangements and the expectations of the parties that entered into JSAs in accordance with Commission rules then in effect and to minimize disruption of television

⁶ NPRM at ¶2.

⁷ See, e.g., Nexstar at 7-8; Granite at 2-5, 7-8; NAB at 9-10; Comments of Belo Corp. (“Belo”) at 6; Comments of NBC Universal, Inc. (“NBC”) at 6.

⁸ See, e.g., Comments of Paxson Communications Corporation (“Paxson”) at 4-5; Belo at 5; NBC at 6.

⁹ See, e.g., Belo at 8-9; Nexstar at 11; NAB at 9-11; NBC at 8.

¹⁰ See NAB at 2-3; Comments of Fisher Broadcasting Company at 3-9.

¹¹ See, e.g., Paxson at 9-11.

service to the public. Permanent grandfathering also is consistent with past Commission practices when changing ownership rules.¹²

If, however, the Commission adopts a new television attribution rule but declines to provide permanent grandfathering, the Commission at the least should provide an extended transition period for those broadcasters with existing JSAs on the date a new rule is adopted. Such a transition period is necessary to allow the stations to modify in a reasonable time frame the contractual/financial/operational arrangements under which the stations are operating and on which the stations may have based their long-term business strategies. The Commission should provide broadcasters with existing television JSAs on the date a new rule is adopted the longer of the following: a) one year after the transition to digital television in their markets has expired or b) two years from the date the Commission adopts a new television JSA attribution rule. The latter period, although brief, would be consistent with the transition period the Commission provided in its 2003 decision attributing radio JSAs to the brokering stations.¹³ Any less of a transition period will significantly and adversely impact the broadcasters affected and could disrupt television service such as local news.

In sum, QNI urges the Commission to reject the proposed television JSA rule. If, however, the Commission adopts a revised rule, the Commission at a minimum also should permanently grandfather television JSAs in existence on the date a new rule is adopted or at least provide an extended transition period.

Respectfully submitted,

QUINCY NEWSPAPERS, INC.

By: /s/
Ralph Oakley, Vice President

¹² See cases cited by Paxson at 18 and note 34.

¹³ *Report and Order*, 18 FCC Rcd at 13746 ¶ 325.